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	DODE-00	DOT-00	DS-00	EB-00	FAAE-00	FBIE-00	UTED-00
	H-00	TEDE-00	INR-00	IO-00	LAB-01	L-00	M-00
	DCP-00	NSAE-00	ISN-00	NSCE-00	OIC-00	OMB-00	NIMA-00
	PA-00	PER-00	GIWI-00	PRS-00	P-00	SCT-00	ISNE-00
	DOHS-00	SP-00	IRM-00	SSO-00	SS-00	STR-00	TRSE-00
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 TAGS: PHUM, PINS, PTER, GM
 SUBJECT: ANSWERS TO BUNDESTAG QUESTIONS ON EL-MASRI,
 RENDITIONS

REF: BERLIN 4117

1. The Bundestag on December 16 published the Government's responses to 34 written questions submitted by Bundestag members concerning alleged prisoner abuse and renditions by the CIA (reftel). In over one third of their responses, the Chancellery and the Ministries of Foreign Affairs, Interior and Justice indicated they could not provide information as the questions were either too vague, involved legal cases before the courts or concerned intelligence matters that could only be answered in a classified briefing. Responses to all other questions were lawyerly and devoid of new information that could stir controversy. Green MdB Wolfgang Wieland expressed general satisfaction with the responses, adding that while a few questions remain, "we are getting closer to the full picture." A synopsis of the responses grouped by subject follows.

 el-Masri Case, Abductions

2. The Interior Ministry again confirmed that Ambassador Coats had informed then Interior Minister Schily about el-Masri on May 31, 2004 after the Lebanese-born German citizen had already been released. Schily still felt bound

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to treat his discussion with Ambassador Coats as confidential, and reiterated that he entreated U.S. authorities to cooperate with German investigators in the case. The Foreign Office listed all the actions the German government had taken on el-Masri's behalf after learning about the case. These included forwarding an August 24, 2004 Baden-Wuerttemberg police report on the case to the German Embassy in Washington, DC and transmitting a June 20, 2005 judicial assistance request by the Justice Ministry to the U.S. Department of Justice by way of the Foreign Office.

3. Asked whether it routinely provided the U.S. Department of Justice with results of preliminary investigations made against Islamists and/or international terrorists, the Interior Ministry replied that it had no relevant statistics on how many cases were shared, but that all such sharing was strictly in accordance with German legal provisions. It added, however, that since September 11, 2001 German authorities have conducted 290 preliminary investigations against suspected Islamic terrorists; 137 by federal authorities and 153 by the Laender.

4. Green MdB Hans-Christian Stroebale asked whether Chancellor Merkel's statement at a joint press conference with Secretary Rice on December 7 meant that either Secretary Rice or another authorized official of the U.S. Government had admitted involvement in the abduction of Khaled el-Masri.

Without saying whether there had been an admission of involvement, the Foreign Office paraphrased the Secretary as having stressed that in the War on Terrorism, the USG felt bound by U.S. law and its international obligations, especially the Convention Against Torture. The Foreign Office then added, "In connection with the el-Masri case, moreover, the Secretary added that in the War on Terrorism mistakes would be made. When such mistakes are made, the U.S. would do everything in its power to correct them."

5. Left Party.PDS MdB Heike Haensel asked whether the Government was prepared to question and if necessary hold accountable former Foreign Minister Joschka Fischer, former Interior Minister Otto Schily and former Chancellery State Secretary Frank-Walter Steinmeier for their handling of the el-Masri case. The Justice Ministry responded that the facts indicated Mr. Schily did not know about the abduction until after el-Masri had already been freed. And although Schily honored a pledge to Ambassador Coats to say nothing about the matter, he also pleaded with USG officials to cooperate with German investigators on the case. As for Mr. Fischer and Mr. Steinmeier, the Justice Ministry noted that they first learned of the case from el-Masri's attorney on June 8, 2004

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and passed on the information to the relevant criminal justice authorities. There was, therefore, no justification for questioning any of the three men.

Rendition Flights

6. There were eight questions involving renditions. The Foreign Office stated that U.S. military aircraft are entitled to use German airspace under a 1954 bilateral agreement and the NATO SOFA. The Government had reached no decision on the status of alleged CIA flights. The German Air Safety Corporation is aware of such flights and has data on how many passengers they carry, but is not capable of identifying the passengers. The Justice Ministry added that renditions to or through German airspace are legal if the German Government gives its assent. The Foreign Office noted

there is a case before the state prosecutor in Zweibruecken involving an Egyptian national who allegedly had been transported through Ramstein Airbase on a flight from Italy to Egypt, but it added that it could not comment further as this was now a legal case before the German courts. In response to a question by a Left Party.PDS MdB, the Foreign Office rejected the general assertion that German sovereignty, human rights and international law were being violated on U.S. bases in Germany.

Detainees' Legal Status

7. Asked about the German Government's views on so-called Unlawful Combatants (sic), the Foreign Office noted that the status of USG-held prisoners at Guantanamo and elsewhere was in dispute. The German Government is of the view that independent of any later determination of their status, these prisoners should be treated as prisoners of war, and that means in accordance with international law. The German Government is also firmly of the view that the legal status of such prisoners should be clarified and resolved quickly.

Bundestag Investigation

8. In his question, Green MdB Wolfgang Wieland challenged Chancellor Merkel's assertion that under Bundestag rules,

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discussion of alleged CIA activities in Germany or in relation to German citizen Khaled el-Masri outside Germany could only be discussed in the Parliamentary Control Board (PKG - equivalent to a select intelligence committee). Wieland was of the view that transparency required that such matters be discussed openly in other committees and before the Bundestag as a whole. The Chancellery responded that in the struggle against international terrorism, cooperation between German intelligence services and those of other democratic countries was an absolute necessity. Parliamentary oversight over the activities of foreign intelligence agencies operating in areas under German sovereignty, therefore, should be carried out exclusively within the classified confines of the PKG.

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